

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION
STATE OF TEXAS, *et al.*,)

United States District Court
Southern District of Texas
FILED

JAN 28 2016

David J. Bradley, Clerk of Court

Plaintiffs,)
) Case Number: 1:14-cv-00254 (ASH)
)
 v.)
)
)
 UNITED STATES OF AMERICA, *et al.*,)
)
)
 Defendants.)
)
 _____)

William F. Reade, Jr. – Petitioner (Pro Se)

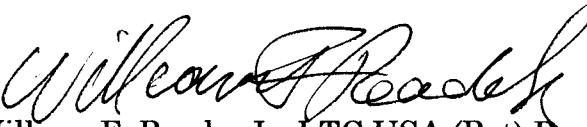
MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached Amicus Brief without prepayment of costs and to proceed *in forma pauperis*, in accordance with Rule #40 **Veterans, Seamen, and Military Cases** As a retired and disabled veteran in accordance with M. G. L. c. 261, § 27(a)-(g). "Indigent", (a) a person who receives public assistance under aid to families with dependent children, program of emergency aid for elderly and disabled residents or **veterans' benefits programs**;

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s): **United States District Court, District of Massachusetts. October 30, 2012. No. 12-11492-DJC. MEMORANDUM AND ORDER DENISE J. CASPER, District Judge.; United States Court of Appeals, District of Massachusetts No. 12-2406 filed 06/11/2013; United States Supreme Court Docket No. 15-7602)**

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto. (See United States Supreme Court Docket No. 15-7602)


William F. Reade, Jr. LTC USA (Ret) Pro se
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**AFFIDAVIT OR DECLARATION IN SUPPORT OF MOTION FOR LEAVE
TO PROCEED *IN FORMA PAUPERIS***

I, William F. Reade, Jr., am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because I am Retired and disabled veteran, and eligible in accordance with ***Rule #40 Veterans, Seamen, and Military Cases entitled to redress***. I submit the following documents:

APPENDIX (A)

(Excerpt from)

Commonwealth of Massachusetts

AFFIDAVIT OF INDIGENCE

AND REQUEST FOR WAIVER, SUBSTITUTION

OR STATE PAYMENT OF FEES & COSTS

(Note: If you are currently confined in a prison or jail and are not seeking immediate release under G.L. c. 248 §1, but you are suing correctional staff and wish to request court payment of "normal" fees (for initial filing and service), do not use this form. Obtain separate forms from the clerk.)

Court Case Name and Number (if known)

Name of applicant

Address

(Street and number) (City or town) (State and Zip)

SECTION 1: Under the provisions of General Laws, Chapter 261, Sections 27A-27G, I swear (or affirm) as follows:

I AM INDIGENT in that (*check only one*):

(A) I receive public assistance under Transitional Aid to Families with Dependent Children (TAFDC), Emergency Aid to Elderly, Disabled or Children (EAEDC), Supplemental Security Income (SSI), Medicaid (MassHealth) or Massachusetts Veterans Benefits Programs; (*circle form of public assistance received*);

Signed under the penalties of perjury

X

By order of the Supreme Judicial Court, all information in this affidavit is CONFIDENTIAL. Except by special order of a court, it shall not be disclosed to anyone other than authorized court personnel, the applicant, applicant's counsel or anyone authorized in writing by the applicant.

This form prescribed by the Chief Justice of the SJC pursuant to G.L. c. 261, 27B.

Promulgated March , 2003

APPENDIX (B)

INSTRUCTIONS FOR USERS OF AFFIDAVIT OF INDIGENCE AND IT'S SUPPLEMENT

A state statute provides that if you cannot pay for court fees or costs, you may be able to have the state pay for them. These instructions describe who is eligible and how to use this law.

Who Is Eligible? - You are eligible for a waiver, substitution or state payment of fees and costs if any one of the following applies to you:

Category (A) You receive public assistance under one of the following programs: Massachusetts Transitional Aid to Families With Dependent Children; Massachusetts Emergency Aid to Elderly, Disabled & Children; Federal Supplemental Security Income; Massachusetts MassHealth (formerly Medicaid) or **Massachusetts Veterans Benefits**;

If you are requesting only normal fees and costs, and your affidavit appears regular and complete on its face and indicates that you are indigent, the Clerk will allow your request immediately A without hearing and without the necessity of appearance of any party or counsel. The Clerk will waive the fees or costs completely, order them to be paid by the Commonwealth, or substitute an alternative means at lower or no cost [that] is substantially equivalent and . . . does not materially impair the rights of any party. If your affidavit is not regular and complete or you do not appear to be indigent, the clerk-magistrate will promptly present your request to a Judge for decision **within 5 days**. The Judge will either grant your request without a hearing or you will be notified of a hearing date.

APPENDIX (C)

M E M O R A N D U M

Date: January 25, 2008

TO: Clerk Susan Mellen
Clerk Maura Doyle

FROM: Christine Burak

IN RE: Poverty Threshold for Affidavits of Indigency (G. L. c. 261, § 27A); Applicable under S.J.C. Rule 3:10

Pursuant to G. L. c. 261, § 27B, the Chief Justice of the Supreme Judicial Court prescribes the "affidavit of indigency" form that is used in determinations regarding court costs of indigent persons. As you know, the form follows the language of G. L. c. 261, § 27A providing three different definitions of the word "indigent." The second definition is "a person whose income, after taxes, is one hundred and twenty-five per cent or less of the current poverty threshold annually established by the Community Services Administration*"

Enclosed are the new Federal Poverty Guidelines, as they appear in the Federal Register of January 23, 2008, Volume 73, Number 15, at pages 3971 - 3972. The figures in the table applicable to states and the District of Columbia have to be multiplied by 125% to determine the indigency level under G. L. c. 261, § 27A. By multiplying each figure in the Federal Register table by 125%, one gets the following guidelines for G. L. c. 261, § 27A:

APPENDIX (D)

SUPREME JUDICIAL COURT
BOSTON, MASSACHUSETTS 02108

MARGARET H. MARSHALL

CHIEF JUSTICE

TO: Chief Justice Armstrong

Chief Justice Dortch-Okara

Chief Justice DelVecchio

Chief Justice Dunphy

Chief Justice Grace

Chief Justice Kyriakakis

Chief Justice Scheier

Chief Justice Zoll

Acting Chief Justice Johnson

FROM: Chief Justice M a r s h a l l

DATE: March 25 2003

RE: Affidavit of Indigency and Related Forms

Pursuant to **G.L. c. 261, §27B**, *I hereby prescribe the enclosed forms* for requesting waiver, substitution or payment by the Commonwealth of fees and costs. Effective on Monday, May 5, 2003, these forms supersede the affidavit of indigency forms currently in use. Enclosed are the following:

1) *Affidavit of Indigency*

2) Supplement to *Affidavit of Indigency*

3) *Court's Determination Regarding Fees and Costs*

4) *Inmate's Affidavit of Indigency*

5) *Request for Payment to be withdrawn from Inmate's Account*

6) *Order to Commissioner of Correction or County Sheriff to Provide Inmate Account*

7) *Instructions for Users*

8) *Instruction to Courts*

Information

Note that the inmate forms, pursuant to G.L. c. 261, §29, and instructions are new. The confidentiality provisions have been revised to provide that the financial information in the affidavit of indigency shall not, except by special order of the court, be disclosed to anyone other than authorized court personnel, the applicant, the applicant's counsel or anyone authorized in writing by the applicant.

Under the decision in *Underwood v. Appeals Court*, 429 Mass. 1017 (1998), the court may order payment of partial fees in appropriate cases. However, consistent with the procedure in G.L. c. 261, §§27C(2) and (3), a determination to order partial payment should be made only by a judge. See "Instructions to Courts." If an applicant checks (B) on the affidavit of indigency, he or she need only provide the information requested in (B) without any need to fill out the supplement to the affidavit of indigency. This procedure is the same as on the current affidavit.

Note that **G.L. c. 261, §27A refers to public assistance under aid to families with dependent children, the emergency aid for elder and disabled residents or**

veterans' benefits programs, or assistance under Title XVI of the Social Security Act or the medicaid program, 42 USC 1396, et seq. The terminology on the form has been changed to reflect current programs. G.L. c. 261, §27A refers to the current poverty threshold annually established by the Community Services Administration pursuant to §625 of the Economic Opportunity Act. Since 1981, the annual update of the poverty income guidelines, formerly issued by the Community Services Administration, has been issued by the Department of Health and Human Services. See Annual Update of the Poverty Income Guidelines, Vol. 68, No. 26 Fed. Reg. 6456 (February 7, 2003).

Please distribute these forms to all clerks, registers or recorders in your court so that they are ready to begin using them on May 5, 2003.

INSTRUCTIONS TO COURTS ON THE ADMINISTRATION OF THE INDIGENT COURT COSTS LAW

Accompanying these Instructions are revised forms to be effective May 5, 2003 under the state's Indigent Court Costs Law, c.261, §§27A - G and 29. Please note that, for the first time, this court has included instructions to applicants as part of the Affidavit of Indigency forms. Previously, each Trial Court Department was authorized to draft its own instructions, if any. It is important to give the same information to users so that the forms and procedures will be more easily understood. Trial Court Departments can supplement or modify these Instructions, as appropriate to their particular Departments, so long as the changes are not inconsistent with these Instructions. If a court department does so, it should submit its changes to the Chief Justice of the Supreme Judicial Court for quick review before they go into effect. These are some comments that we make on the Indigent Court Costs Statute and forms, in order to provide guidance to you in administering this law.

- 1) Partial Fees May Be Permitted - [Omitted for brevity]
- 2) Instructions on Use of Inmate Forms – [Omitted for brevity]
- 3) Acceptance of Court Papers Accompanying Filing Fee Waiver Requests - [Omitted for brevity]

- 4) **Duties of Clerk** - The statute *requires* that applications for waiver or state payment of normal fees or costs **under Categories A** (recipients of certain means-tested public benefit programs) and B (income is below 125% of the federal poverty line) **must be approved** by the Clerk (or the Assistant Clerk) without delay so long as they are regular on their face and raise no significant question about whether the applicant is indigent. G.L. c. 261, 27C(2). Except in prisoner cases, such papers should not be referred to a judge for decision, nor should further information be requested if the papers are properly completed. Also, the Clerk should not require an applicant to complete the Supplement to the Affidavit of Indigency form unless he or she is applying under Category C.

- 5) **Confidentiality of Papers** [Omitted for brevity]

6) Appeals - G.L. c. 2§6217, 6(3) provides that if the affidavit is not regular on its face or does not indicate the applicant is indigent, the clerk or register shall bring it to the attention of a judge. Any denial or other decision by a Judge can be appealed to an appellate court under the procedures provided for in the statutes or rules. G.L. c. 261, § 27D.

7) Posting of Federal Poverty Line Information - [Omitted for brevity]

8) Estimated Costs - Applicants are asked to give their best estimates of the costs of the services whose waiver or state payment they are requesting. If they do not know the cost, they are asked to provide a reasonable description of what they need. Most applicants will not know the actual costs of many of these services. Therefore, courts should approve otherwise appropriate applications for waiver or state payment and insert in the approval the actual or estimated amount of the fee or service, as it is known to the court.

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United States District Court
Southern District of Texas
FILED

JAN 28 2016

David J. Bradley, Clerk of Court

Hon. David J. Bradley
Clerk of Court
600 E. Harrison St., #101
Brownsville, TX 78520

January 21, 2016

Dear Mr. Bradley,

Re: STATE OF TEXAS, *et al.*, v UNITED STATES OF AMERICA, *et al.*,) Case
Number: 1:14-cv-00254 (ASH)

I am enclosing herewith a motion for Amicus Curiae which I hope will be considered for inclusion as it contains matters of law which all involved have failed to consider. I am a 77 year old 100% disabled veteran who is also a Naturalized Citizen under the 14th Amendment. I was born March 11, 1938 in Massachusetts General Hospital, Boston Massachusetts; My Father was a British Citizen/Subject, my Birth certificate lists my Father as British under British and International law I was born British; on January 1st 1947 Canada became a separate Nation, on that day my father became a Citizen of Canada, being under 21 years of age I became a Canadian citizen by descent (Certificate Number K1693416 dated 1947/01/01); June 16th 1947 my Father became a Naturalized U.S. Citizen, (Certificate No. 6649882) I was nine (9) years of age, being under twenty-one (21), I became a Naturalized U.S. Citizen by Descent in accordance with the 14th Amendment.

I am going to explain a little more in the Brief however I will state here some of the necessary Laws to consider and I will highlight pertinent parts:

ARTICLE 6, Clause 2, LAWFUL UNITED STATES CONSTITUTION:

"THIS CONSTITUTION, and the laws of the United States of America which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States of America, SHALL BE THE SUPREME LAW OF THE LAND; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."

FIRST CONGRESS . Sess.II. Chap. 3. 1790

Chap. III. – An act to establish an uniform Rule Of Naturalization.(a)
Section I. Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled,----**Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States:**

The actual text of the THIRD CONGRESS in 1795 states:

"...children of citizens of the United States...shall be considered citizens of the United States;
Provided That the right of citizenship shall not descend to persons, whose fathers have never been resident in the United States..."

8th Congress Naturalization act Approved April 14, 1802. 7 Hill, 137: it was Stated: "**Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States:**"

The 14th Amendment and all and every piece of Legislation describing "Citizenship" has stated:

AMENDMENT XIV; § 1.

All persons born or naturalized in the United States, and **subject to the jurisdiction thereof**, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; **nor deny to any person within its jurisdiction the equal protection of the laws.**

Article VI, Section 1, clause 3 of the Constitution This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; **and all Treaties made, or which shall be made**, under the Authority of the United States, **shall be the supreme Law of the Land**; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

It is now therefore established, based on undeniable historical fact, from an unquestionable source, who can and who cannot be a citizen.

That the right of citizenship shall not descend to persons whose fathers have never resided within the United States:

A review of these proceedings will be most helpful and informative;
**Congressional Record 110th Congress (2007-2008) JOHN S. McCAIN, III
CITIZENSHIP – (Senate - April 30, 2008) Calendar No. 715, S. Res. 511**

CONVENTION ON CERTAIN QUESTIONS RELATING TO THE CONFLICT OF NATIONALITY LAWS: THE HAGUE - 12 APRIL 1930
CONSIDERING that it is of importance to settle by international agreement questions relating to the conflict of nationality laws;

I would suggest that a review of all of the above will show that illegal is illegal and they cannot become citizens without due process. That is by applying and following the process that my family was required to follow.

The observation of a repetitive, requirement in all the above "*shall not descend*" should convince any who read this that, although you be born here of a father who is not a citizen, you are not a citizen; this is only the place of your birth. Further it is has to also be noted that being born here is not a requirement as citizenship is inherited from our parents (Fathers)[born out of the limits and jurisdiction]

Sincerely,

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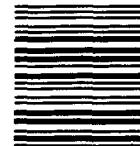
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JAN 28 2016

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